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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

WILLIAM DONALD MARSHALL,

Civil No. 1:CV-01-0949

Petitioner

v.

ROBERT L. RAIGER,
Warden of Lebanon County
Correctional Facility

Respondent

FILED
HARRISBURG, PA

AUG 09 2001

MARY E. D'ANDREA, CLERK
Per MA
Deputy Clerk

MEMORANDUM and ORDER

Before the court are the following motions filed by Petitioner, William Donald Marshall: (1) a motion for emergency protective order; (2) a motion for reconsideration of the court's July 18, 2001 dismissal of Petitioner's motion for writ of habeas corpus; and (3) Petitioner's motion for leave to proceed *in forma pauperis* and for an order to aid rule 23(a) of the Federal Rules of Appellate Procedure.¹ The court will deny Plaintiff's motion for reconsideration, and therefore Plaintiff's other motions will be denied as moot.

I. Background

Petitioner is currently in custody at the Lebanon County Correctional Facility in Lebanon County, Pennsylvania. Petitioner was taken into custody by the Commonwealth of Pennsylvania on May 8, 2001, pursuant to an Arrest prior to Requisition (Fugitive) Warrant which was issued by the Pennsylvania State Police based on a Larceny Warrant lodged against Petitioner by the Commonwealth of

¹Petitioner also filed a subsequent petition for writ of habeas corpus on July 31, 2001. That petition was assigned a separate docket number, 1:01-CV-1445, and will be disposed of in a separate order.

Virginia. A hearing to determine whether Petitioner would be extradited to Virginia was originally scheduled for June 4, 2001, and was subsequently continued until June 28, 2001. It is unclear from the record whether said hearing has yet been held, however, it is immaterial to the disposition of the instant petition.

Petitioner filed his petition for writ of habeas corpus on May 29, 2001. Petitioner, in his various filings with the court, has asserted numerous reasons why the court should grant habeas relief. On July 18, 2001, the court dismissed the petition for writ of habeas corpus for failure to exhaust his state remedies. Plaintiff subsequently filed the instant motions.

II. Discussion

A motion for reconsideration is not to give a litigant a second bite of the apple to reargue his position. It is well settled that a court will grant a motion for reconsideration only "to correct manifest errors of law or fact or to . . . [consider] newly discovered evidence." *Harsco Corp v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985), *cert. denied*, 476 U.S. 1171 (1986). Thus, unless new evidence has come to light which, had such evidence been discovered previously, could have affected a court's decisions, or unless the law on an issue has changed since the court's consideration of that issue, a motion for reconsideration is not proper.


Here Petitioner has failed to present the court with any newly discovered evidence, new developments in the law, or even argument that the court erred in finding that he failed to exhaust his state remedies prior to filing his petition for writ of habeas corpus in this court. Accordingly, the court will deny Petitioner's

motion for reconsideration. Furthermore, the court will deny as moot Petitioner's motions for protective order and to proceed *in forma pauperis*.

III. Order

In accordance with the foregoing memorandum of law, **IT IS
HEREBY ORDERED THAT:**

- (1) Petitioner's motion for reconsideration is **DENIED**;
- (2) Petitioner's motion for emergency protective order is **DENIED as
MOOT**;
- (3) Petitioner's motion to proceed *in forma pauperis* is **DENIED as
MOOT**.


SYLVIA H. RAMBO
United States District Judge

Dated: August 9, 2001.

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

August 9, 2001

Re: 1:01-cv-00949 Marshall v. Raiger

True and correct copies of the attached were mailed by the clerk
to the following:

William Donald Marshall
Lebanon County Prison
730 E. Walnut Street
Lebanon, PA 17042

David J. Arnold Jr., Esq.
Lebanon County District Attorney's Office
400 S. 8th Street
Lebanon, PA 17042

cc:

Judge	(X)	() Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: August 9th, 2001

BY:

